

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOHN DOES, et al.,

Plaintiffs,

V.

DONALD TRUMP, et al...

## Defendants.

CASE NO. C17-0178JLR

**ORDER DENYING MOTION  
TO STAY**

(RELATING TO BOTH CASES)

JEWISH FAMILY SERVICES, et  
al.,

## Plaintiffs,

V.

DONALD TRUMP, et al.,

## Defendants.

CASE NO C17-1707JLR

Before the court is Defendants' motion for a stay of all proceedings because on

December 21, 2018, the appropriations act that had been funding the Department of

Justice (“DOI”) expired. (Mot. (Dkt. # 172).) Plaintiffs in both of the consolidated cases

1 || oppose the motion. (Resp. (Dkt # 173).) Defendants did not file a reply. (See generally  
2 Dkt.) The court has considered the motion, Plaintiffs' response, other relevant portions  
3 of the record, and the applicable law. Being fully advised,<sup>1</sup> the court DENIES  
4 Defendants' motion for a stay as MOOT.

5       On December 20, 2018, the court ordered the parties to engage in supplemental  
6 jurisdictional discovery. (12/20/18 Order (Dkt. # 171).) On December 21, 2018, the  
7 appropriations act, which provided DOJ's funding, lapsed. (See Mot. at 2.) Defendants'  
8 motion suggests that good cause under Federal Rule of Civil Procedure 16(b)(4) exists to  
9 extend Defendants' February 3, 2019, deadline to produce supplemental discovery  
10 because Defendants are "prohibited from working on this matter" by the Antideficiency  
11 Act, 31 U.S.C. § 1342. (Mot. at 2.) As discussed below, the court disagrees.

12       The Antideficiency Act prohibition does not apply to "emergencies involving the  
13 safety of human life or the protection of property." 31 U.S.C. § 1342. That standard is  
14 met when there is "some reasonable and articulable connection between the function to  
15 be performed and the safety of human life or the protection of property" and "some  
16 reasonable likelihood that the safety of human life or the protection of the property would  
17 be compromised, in some degree, by delay in the performance of the function in  
18 questions." 43 Op. Att'y Gen. 293, 302 (Jan. 16, 1981). By definition, refugees awaiting  
19 resettlement through the United States Refugee Admission Program ("USRAP") have

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21       <sup>1</sup> No party requests oral argument (see generally Mot.; Resp.), and the court has  
22 determined that oral argument would not be of assistance in deciding the motion, see Local Rules  
W.D. Wash. LCR 7(b)(4).

1 been determined by the United States government to be at risk of persecution because of  
2 a protected characteristic (race, religion, nationality, membership in a particular social  
3 group, or political opinion). *See* 8 U.S.C. § 1101(a)(42) (defining a “refugee”). On  
4 December 23, 2017, the court preliminary enjoined Defendants’ suspension of the  
5 processing of certain categories of refugees and the admission of those refugees into the  
6 United States. (*See* 12/23/17 Order (Dkt. # 92).) The jurisdictional discovery that  
7 remains at issue involves Defendants’ compliance with that preliminary injunction. (*See*  
8 7/27/18 Order (Dkt. # 155).) Thus, the court concludes that the Antideficiency Act does  
9 not bar DOJ or other federal government agencies from continuing to work on these  
10 consolidated cases because there is a “reasonable and articulable connection” between the  
11 resolution of these consolidated cases and the safety of the refugees at issue and “some  
12 reasonable likelihood” that the safety of those refugees would be compromised by a  
13 continued delay in these consolidated cases. *See* 43 Op. Att’y Gen. at 302.

14 Nevertheless, on Friday, January 25, 2019, President Donald Trump signed into  
15 law House Joint Resolution 28, the “Further Additional Continuing Appropriations Act,  
16 2019,” which includes a short-term continuing resolution that provides fiscal year 2019  
17 appropriations through February 15, 2019. Thus, the federal government has restored the  
18 lapsed funding upon which Defendants’ motion was premised. (*See* Mot. at 2.)  
19 Accordingly, Defendants’ motion for a stay based on a lapse in funding is now moot, and  
20 the court denies it on that basis.

21 Notwithstanding the court’s ruling, the court recognizes that Defendants may have  
22 experienced disruptions as a result of the lapse of federal funding. Accordingly, the court

1 ORDERS the parties to meet and confer by telephone no later than Thursday, January 31,  
2 2019, to discuss any necessary, short adjustments to the current discovery schedule. The  
3 court further ORDERS the parties to file a stipulation and proposed order concerning any  
4 such necessary, short adjustments to the current discovery schedule. If the parties are  
5 unable to reach an agreement, the court ORDERS the parties to file separate proposals no  
6 later than January 31, 2019, limited to no more than three pages, respectively.

7 Dated this 31st day of January, 2019.

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11 JAMES L. ROBART  
12 United States District Judge  
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